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OFFICE OF PETITIONS

In re Application of
Gegr Nathan Buchl
Application No. 10/774790
Filing or 371(c) Date: 02/10/2004
Attorney Docket Number: 8090

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: DECISION ON
: PETITION
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This is a decision in response to the renewed petition to revive unavoidably abandoned application, filed December 8, 2008. The petition is properly treated under 37 CFR 1.137(a). Applicant requests alternate consideration of the petition under 37 CFR 1.137(b).

This Petition under 37 CFR 1.137(b) is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed February 16, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on August 10, 2007; however, the reply required a three (3) month extension of time and fee in order to have been considered timely.

This Office mailed a Notice of Non-Compliant Amendment on September 19, 2007. The Notice stated that claim(s) 13 and 18 have the wrong status identifier and need to charge fee for extension for 3 months. The Notice set a one (1) month or 30 day period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on January 11, 2008, and included a request to "charge the fee for a three (3) month extension to Master Card 5522-[XXXX-XXXX-XXXX], Valid Dates 11/07-11/10."

No complete and proper (timely) response having been received, the application became abandoned on May 17, 2007. A Notice of Abandonment was mailed October 1, 2008.

Applicant filed a petition to revive based upon unavoidable delay on October 2, 2008, which was dismissed in a Decision mailed November 20, 2008, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). Applicant also requested alternate consideration of the petition under 37 CFR 1.137(b); however, Applicant failed to submit the petition fee, and the petition was not considered on its merits.

The present renewed petition

Applicant files the present petition to revive the application under 37 CFR 1.137(b), and includes the petition fee; a reply to the Office action in the form of an Amendment; a Terminal Disclaimer and fee, and a three (3) month extension of time fee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

A refund of the extension of time fee has been scheduled via Treasury Check.

It is also noted that Applicant has filed a Terminal Disclaimer and fee with the petition. Applicant is advised that a terminal disclaimer is not required as a condition for revival of an application under 37 CFR 1.137(b) in applications filed on or after June 8, 1995. See 37 CFR 1.137(d)(3).

Applicant is also advised that there a variety of printable forms available at <http://www.uspto.gov/web/forms/index.html>, including petition and terminal disclaimer forms.

This application is being referred to Technology Center Art Unit 3671 for processing of the Amendment filed with the petition in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
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